

MASSACHUSETTS CLIENTS' SECURITY BOARD
OF THE
SUPREME JUDICIAL COURT



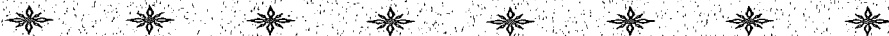
ANNUAL REPORT

TO THE

SUPREME JUDICIAL COURT

FISCAL YEAR 2013

September 1, 2012 - August 31, 2013



CLIENTS' SECURITY BOARD
of the Supreme Judicial Court of Massachusetts

August 31, 2013

Dear Reader,

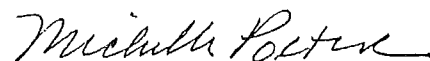
As we endeavored to discharge the "collective professional responsibility of the members of the Massachusetts bar" during the course of our fiscal year just ended, following are selective highlights of the work my colleagues and I are privileged to do:

- ◆ We awarded a total of \$2,801,666, the highest ever, bringing the 39-year total to slightly more than \$44 million.
- ◆ We conducted in-person, full-Board hearings that resulted in awards totaling \$1.9 million or 68% of the total amount awarded.
- ◆ For the first time, two disciplined lawyers each accounted for more than \$750,000.00 in awards during the same year. The last high-water mark was 2005, when two disciplined lawyers each accounted for more than \$500,000.00.
- ◆ During the first ten months of the year, the Board had received only 54 new claims causing us to expect a record low year. However, in the final two months, we received 54 additional claims for a total of 108, the highest in the last five years and tied with 2008 for the highest in the last ten years. This year-end spike is mainly due to the conduct of one lawyer whose disciplinary process is still ongoing.
- ◆ Despite year-to-year variations in award levels and the number of awards made, we can take comfort in the fact that only a microscopic number of lawyers were the wrongdoers. Only 40 disciplined lawyers (0.07%) out of 57,168 members of the Massachusetts bar were responsible for the \$2.8 million in misappropriations reimbursed in fiscal year 2013.

Finally, it is my special pleasure to report that in May at the ABA National Forum on Client Protection, Assistant Board Counsel, Karen D. O'Toole received the Isaac Hecht Award from the National Client Protection Organization for her 24 years of creative and devoted service on the local and national levels to advancing the cause of law client protection. Karen's award reinforces the national stature of our Board and Fund created by the Supreme Judicial Court in 1974, and the Board is enormously grateful for her tireless effort and commitment.

My colleagues and I look forward to an exciting and challenging fortieth anniversary year and are grateful for the steadfast support of all the Justices who have served on the Supreme Judicial Court during those four decades.

Very truly yours,



Michelle M. Porter
Chair

FY 13 – SIGNIFICANT NUMBERS

Total Awarded	\$2,801,665.59
Claims Adjudicated	83
Total Awards	69
Median Award	\$4,300.00
Lawyers Responsible	40 out of 57,168
# Claims Pending, Year-End	100
\$ Claims Pending, Year-End	\$2,924,218.69

PRO BONO LAWYERS

The Board is pleased to acknowledge and thank the following lawyers who generously contributed their time and talents during FY 2013 to represent claimants before the Board for which service, by Court Rule, they may not receive compensation.

Andrew L. Barrett, Quincy, MA
 Lisa Brodeur-McGan, Springfield, MA
 Marc E. Chapdelaine, Saugus, MA
 Tyson R. Ence, Agawam, MA
 Risa Freeman, Quincy, MA
 Jeffrey Kitaeff, North Andover, MA
 Norman C. Michaels, Springfield, MA
 Salvatore J. Scibelli, Longmeadow, MA
 Daniel P. Tarlow, Methuen, MA
 Krista A. Wroldson, Pittsfield, MA

Dianne Bartalamia, Tewksbury, MA
 Kevin E. Buck, Lowell, MA
 Robert H. D'Auria, Bedford, MA
 David Allan Fitch, Lexington, MA
 Robert M. Josephs, Jamaica Plain, MA
 Robert M. McGill, Boston, MA
 George T. O'Brine, Peabody, MA
 Paul Seaver, Dorchester, MA
 Ellen Anna Wright, Tewksbury, MA

Claims Activity Chart 1975-2013

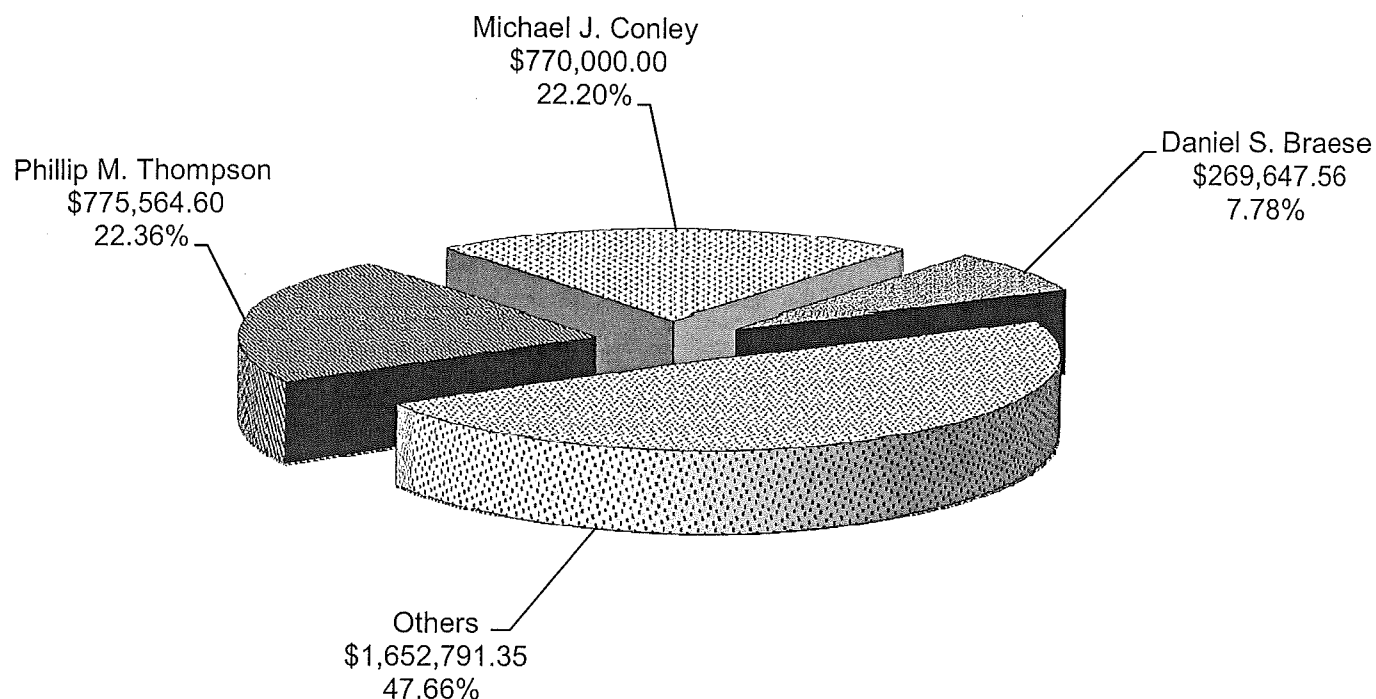
Fiscal Year	Claims Filed	Claims Adjudicated	Claims Dismissed	Awards Made	Total Awards
1975	14	7	2	5	\$2,808.00
1976	36	28	18	10	\$44,635.00
1977	21	18	13	5	\$22,100.80
1978	71	34	14	20	\$64,734.00
1979	53	39	29	10	\$14,490.00
1980	126	60	38	22	\$71,208.00
1981	42	126	61	65	\$244,276.18
1982	30	29	9	20	\$80,212.00
1983	35	40	7	33	\$152,005.00
1984	45	42	17	25	\$141,125.67
1985	46	34	12	22	\$224,904.17
1986	23	38	7	31	\$214,810.75
1987	42	35	12	22	\$503,776.00
1988	28	24	13	11	\$267,954.24
1989	51	40	16	24	\$146,720.06
1990	74	73	18	55	\$759,025.23
1991	71	55	20	35	\$624,592.42
1992	124	85	16	69	\$968,894.77
1993	146	95	22	73	\$1,111,181.93
1994	109	157	27	130	\$1,203,911.62
1995	90	103	35	68	\$1,602,217.70
1996	139	100	33	67	\$1,696,870.13
1997	81	113	30	83	\$2,058,900.92
1998	119	102	46	56	\$1,254,229.91
1999	80	98	32	66	\$2,119,675.47
2000	83	108	22	86	\$2,744,848.83
2001	119	70	15	55	\$1,963,555.27
2002	82	94	25	69	\$1,066,379.91
2003	116	56	11	45	\$1,055,477.00
2004	90	159	58	99	\$2,412,597.49
2005	81	81	26	55	\$2,203,527.19
2006	91	93	51	42	\$1,653,026.91
2007	77	88	31	57	\$1,958,904.76
2008	108	89	21	68	\$2,654,436.60
2009	95	116	33	83	\$1,328,039.01
2010	82	106	14	92	\$2,397,677.77
2011	106	97	34	63	\$2,059,194.55
2012	85	113	27	86	\$2,111,791.36
2013	108	83	14	69	\$2,801,665.59
TOTAL				1,996	\$44,006,382.21

Awards and Defalcations by Disciplined/Deceased Lawyers

Disciplined Lawyer	Town	County	No. of Awards	Amount Awarded	Defalcation Amounts
Phillip M. Thompson	Lowell	Middlesex	4	\$775,564.60	\$775,564.60
Michael J. Conley	Marblehead	Essex	1	\$770,000.00	\$770,000.00
Daniel S. Braese	N. Andover	Essex	2	\$269,647.56	\$269,647.56
Martin J. Gately	Malden	Middlesex	1	\$227,874.24	\$227,874.24
Patrick J. McDonough	Waltham	Middlesex	1	\$151,000.00	\$151,000.00
Robert H. Monheimer	Natick	Middlesex	2	\$139,820.35	\$139,820.35
Raymond J. Paczkowski	Tewksbury	Middlesex	3	\$72,502.41	\$72,502.41
Bernard J. MacCallum	Hamilton	Essex	1	\$60,000.00	\$60,000.00
Matthew J. McCarthy	Cambridge	Middlesex	4	\$52,685.36	\$52,685.36
Anthony J. Sicilano	Casper, WY	Natrona	1	\$47,334.42	\$47,334.42
*Burton Samuel Kliman	Chestnut Hill	Middlesex	6	\$22,127.00	\$22,127.00
Michael L. Pierce	Wakefield	Middlesex	3	\$21,954.89	\$21,954.89
Stephen Swaye	New Bedford	Bristol	1	\$18,000.00	\$18,000.00
Richard A. Fairbrothers	Boston	Suffolk	3	\$17,825.00	\$17,825.00
Dane C. Dowell	Hampton, NH	Rockingham	1	\$16,500.00	\$16,500.00
*John H. Kelleher	Boston	Suffolk	1	\$14,948.00	\$14,948.00
Paul A. Gargano	Cambridge	Middlesex	1	\$13,494.92	\$13,494.92
Malcolm Joel Barach	Boston	Suffolk	1	\$10,732.67	\$10,732.67
Joseph Santo Mangano	Derry, NH	Rockingham	5	\$10,534.00	\$10,534.00
*Peter J. Muse	Milton	Norfolk	1	\$10,000.00	\$10,000.00
Apolo Juan Catala	Jamaica Plain	Suffolk	1	\$10,000.00	\$10,000.00
*Robert William Zeida	Falmouth	Barnstable	2	\$10,000.00	\$10,000.00
Carl N. Donaldson	Watertown	Worcester	1	\$10,000.00	\$10,000.00
*Michael Underhill	Bristol, RI	Bristol	1	\$7,420.67	\$7,420.67
Daniel Joseph Kelleher	Andover	Essex	3	\$6,879.00	\$6,879.00
Aldana Johnson	Malden	Middlesex	1	\$5,000.00	\$5,000.00
*John D. Hodges	Tewksbury	Middlesex	2	\$3,500.00	\$3,500.00
Jerrold N. Arnowitz	Upton	Worcester	3	\$3,396.75	\$3,396.75
Maureen Pomeroy	Bedford	Middlesex	1	\$3,000.00	\$3,000.00
Pedro L. Beato	Salem	Essex	1	\$3,000.00	\$3,000.00
Michael L. Howard	Burlington	Middlesex	1	\$2,875.00	\$2,875.00
Michael J. Ostroskey	Pittsfield	Berkshire	1	\$2,804.75	\$2,804.75
Courtney B. Harmon	Malden	Middlesex	1	\$2,100.00	\$2,100.00
Joseph K. Chancellor	Hadley	Hampshire	1	\$2,000.00	\$2,000.00
Ennio Cataldo	Medford	Middlesex	1	\$1,800.00	\$1,800.00
Samson Mparaganda	Nashua, NH	Hillsborough	1	\$1,320.00	\$1,320.00
Edward M. Cronin	Westboro	Worcester	1	\$1,274.00	\$1,274.00
Charles R. Phillips	Whitman	Plymouth	1	\$1,000.00	\$1,000.00
Gerald Halfhide	Framingham	Middlesex	1	\$1,000.00	\$1,000.00
*Robert W. Landry	Sudbury	Middlesex	1	\$750.00	\$750.00
TOTAL			69	\$2,801,665.59	\$2,801,665.59

* Deceased

Lawyers with Highest Defalcations



Awards by Categories

Category	No. of Awards	% of Total Awards	Total Awarded	% Total \$\$ Awarded	Total Defalcation	% of Total Defalcation
Fiduciary	3	4.35%	\$230,424.24	8.22%	\$230,424.24	8.22%
Trusts & Estates	6	8.70%	\$974,220.13	34.77%	\$974,220.13	34.77%
Real Estate	15	21.74%	\$1,270,588.22	45.35%	\$1,270,588.22	45.35%
Unearned Retainer	35	50.72%	\$212,095.80	7.57%	\$212,095.80	7.57%
Settlement	8	11.59%	\$63,502.78	2.27%	\$63,502.78	2.27%
PI Settlement	1	1.45%	\$47,334.42	1.69%	\$47,334.42	1.69%
Bankruptcy	1	1.45%	\$3,500.00	0.12%	\$3,500.00	0.12%
Total	69	100.00%	\$2,801,665.59	100.00%	\$2,801,665.59	100.00%

FIDUCIARY: THE MISUSE OF FUNDS HELD BY AN ATTORNEY ACTING AS A FIDUCIARY ARISING FROM AN ATTORNEY-CLIENT RELATIONSHIP.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Martin J. Gately	1	\$227,874.24	98.89%
Ennio Cataldo	1	\$1,800.00	0.78%
Robert W. Landry	1	\$750.00	0.33%
Total	3	\$230,424.24	100.00%

PERSONAL INJURY SETTLEMENT: MISAPPROPRIATION OF PROCEEDS FROM THE SETTLEMENT OF PERSONAL INJURY MATTERS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Matthew J. McCarthy	4	\$52,685.36	49.04%
Michael J. Underhill	1	\$7,420.67	6.91%
Anthony J. Siciliano	1	\$47,334.42	44.06%
Total	6	\$107,440.45	100.00%

REAL ESTATE: MISAPPROPRIATION OF DEPOSITS, ESCROWS, PURCHASE MONEY OR SALE PROCEEDS IN PURCHASE, SALE, AND RE-FINANCE TRANSACTIONS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Phillip M. Thompson	4	\$775,564.60	61.04%
Daniel S. Braese	2	\$269,647.56	21.22%
Patrick J. McDonough	1	\$151,000.00	11.88%
Burton Samuel Kliman	3	\$10,828.00	0.85%
Michael L. Pierce	1	\$454.89	0.04%
Apolo Juan Catala	1	\$10,000.00	0.79%
John D. Hodges	1	\$1,500.00	0.12%
Michael J. Ostroskey	1	\$2,804.75	0.22%
Robert H. Monheimer	1	\$48,788.42	5.75%
Total	15	\$1,270,588.22	100.00%

TRUST AND ESTATES: THE MISAPPROPRIATION OF MONEY OR OTHER ASSETS, INTENDED FOR THE HEIRS, BENEFICIARIES OR A TRUST, BY AN ATTORNEY SERVING AS TRUSTEE, EXECUTOR OR COUNSEL TO THE EXECUTOR OR TRUSTEE.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Michael J. Conley	1	\$770,000.00	79.04%
Robert H. Monheimer	1	\$91,031.93	9.34%
Raymond J. Paczkowski	1	\$18,240.20	1.87%
Bernard J. MacCallum	1	\$60,000.00	6.16%
Michael L. Pierce	1	\$20,000.00	2.05%
John H. Kelleher	1	\$14,948.00	1.53%
Total	6	\$974,220.13	100.00%

BANKRUPTCY: MISAPPROPRIATION OF CLIENT FUNDS INTENDED AS PAYMENTS TO THE BANKRUPTCY COURT OR TO CREDITORS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Joseph Santo Mangano	1	\$3,500.00	100.00%
Total	1	\$3,500.00	100.00%

SETTLEMENT: MISAPPROPRIATION OF PROCEEDS FROM THE SETTLEMENT OF LITIGATION MATTERS.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Jerrold Arnowitz	3	\$3,396.75	100.00%
Total	3	\$3,396.75	100.00%

UNEARNED RETAINER: CLIENT MONEY ACCEPTED BY AN ATTORNEY WHO FAILED TO PERFORM THE AGREED UPON LEGAL SERVICE. THESE CLAIMS SHOULD NOT BE CONFUSED WITH FEE DISPUTES OR MALPRACTICE CLAIMS WHERE AN ATTORNEY NEGLIGENTLY PERFORMS LEGAL SERVICES CAUSING FINANCIAL LOSS TO A CLIENT.

Disciplined Lawyer	No. of Awards	Total Awards	% of Total Awarded
Raymond J. Paczkowski	2	\$54,262.21	25.58%
Burton Samuel Kliman	3	\$11,299.00	5.33%
Michael L. Pierce	1	\$1,500.00	0.71%
Stephen B. Swaye	1	\$18,000.00	8.49%
Richard A. Fairbrothers	3	\$17,825.00	8.40%
Dane C. Dowell	1	\$16,500.00	7.78%
Paul A. Gargano	1	\$13,494.92	6.36%
Malcolm Joel Barach	1	\$10,732.67	5.06%
Joseph Santo Mangano	4	\$7,034.00	3.32%
Peter J. Muse	1	\$10,000.00	4.71%
Robert Willaim Zeida	2	\$10,000.00	4.71%
Carl N. Donaldson	1	\$10,000.00	4.71%
Daniel Joseph Kelleher	3	\$6,879.00	3.24%
Aldana Johnson	1	\$5,000.00	2.36%
John D. Hodges	1	\$2,000.00	0.94%
Maureen F. Pomeroy	1	\$3,000.00	1.41%
Pedro L. Beato	1	\$3,000.00	1.41%
Michael L. Howard	1	\$2,875.00	1.36%
Courtney B. Harmon	1	\$2,100.00	0.99%
Joseph K. Chancellor	1	\$2,000.00	0.94%
Samson Mparaganda	1	\$1,320.00	0.62%
Edward M. Cronin	1	\$1,274.00	0.60%
Charles R. Phillips	1	\$1,000.00	0.38%
Gerald Halfhide	1	\$1,000.00	0.38%
Total	35	\$212,095.80	100.00%

RESTITUTION

Category	Amount Collected
Court Ordered	\$17,158.54
CSB Activity	\$1,200.00
Voluntary	\$225.00
Total	\$18,583.54

BASIS FOR DISMISSED CLAIMS

Category	No. of Claims
Insufficient Data	1
No Defalcation	12
Voluntary Withdrawal	1
Total	14

CLAIMS PENDING

Basis	# of Claims Pending	\$Total Claims
Fiduciary	4	\$1,032,713.39
Real Estate	2	\$156,248.36
Settlement	22	\$690,887.89
Trusts & Estates	8	\$323,085.89
Unearned Retainer	61	\$683,485.45
PI Settlement	3	\$37,797.71
Total	100	\$2,924,218.69

Information on filing a Claim for reimbursement can be found at
www.mass.gov/ClientsSecurityBoard

or

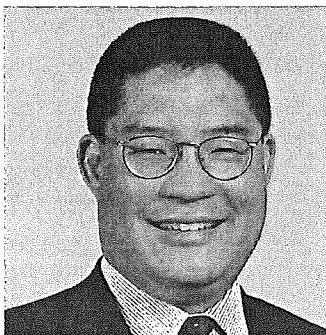
contact the
Clients' Security Board
99 High Street, 2nd Floor
Boston, MA 02110
Telephone: 617-728-8700
Fax: 617-482-8000

Board Members

Michelle M. Porter, Esq., Chair, was appointed to the Board on March 1, 2010. She is a Director in the Private Client and Trust Group of Goulston & Storrs whose practice is focused on estate and tax planning, trust and estate administration and charitable giving. Prior to her present position, she practiced with Luce, Forward, Hamilton & Scripps in San Diego, California. Ms. Porter received a B.A. from the College of the Holy Cross, and her J.D. from Notre Dame Law School. She is a member and past co-chair of the Boston Bar Association Trusts and Estates New Developments Committee, a member of Professional Advisory Network of the Boston Foundation, a member of the Boston Estate Planning Council, and a volunteer attorney for the AIDS Action Committee.



Edward S. Cheng, Esq., Vice Chair, was appointed to the Board on December 1, 2008. He is a partner at the firm of Sherin and Lodgen LLP where he is co-chair of the Professional Liability Group. He specializes in complex commercial disputes, professional malpractice cases, insurance coverage disputes, title litigation, and real estate litigation. Mr. Cheng is a member of the Judicial Nominating Commission and the State Ballot Law Commission, and he serves as a Hearing Officer for the Massachusetts Board of Bar Overseers. He is also a board member of the Asian-American Lawyers Association of Massachusetts. Mr. Cheng is a graduate of Princeton University and Boston College Law School, *magna cum laude*. He was a law clerk for the Honorable then-Justice Margaret H. Marshall of the Massachusetts Supreme Judicial Court.



Francis C. Morrissey, Esq., Secretary, was appointed to the Board on March 1, 2010. He is a partner in the firm of Morrissey, Wilson & Zafiroopoulos, LLP, Braintree, where he concentrates his practice on commercial litigation and insolvency matters. His practice encompasses all aspects of the bankruptcy process, including contested and competing plan confirmation hearings, contested relief from stay and cash collateral hearings and fraudulent transfer and preference litigation. In addition, Mr. Morrissey is a faculty member for the LLM Program in Banking and Financial Law at the Morin Center at Boston University School of Law and New England Law, Boston. He serves on the Legal Affairs Committee of the Finance Council of the Archdiocese of Boston, as Co-Chair of the American Bankruptcy Institute's Annual Northeast Bankruptcy Conference and as Co-Chair of the Massachusetts Bar Association's Business Law Council. Mr. Morrissey received his J.D. from Boston University School of Law.



D. Ethan Jeffery, Esq., Treasurer, was appointed to the Board on January 1, 2011. He is a shareholder in the law firm of Murphy & King, P.C. where his practice focuses on representing debtors, trustees, and creditors in complex Chapter 11 cases, and representing debtors and creditors in non-bankruptcy restructurings and workouts. Mr. Jeffery received a B.A. from the University of New Hampshire and a J.D. from Villanova Law School. Mr. Jeffery is a member of the American Bankruptcy Institute's Executive Advisory Board for the Northeast Conference, is the co-chair of the Boston Bar Association's Commercial Finance Committee, and is listed in *Chambers USA: America's Leading Lawyers for Business*.



Board Members

Joseph H. Baldiga, Esq. was appointed to the Board on March 1, 2012. As a partner in the Creditors' Rights and Bankruptcy Group of the Worcester firm of Mirick O'Connell, LLP, he concentrates his practice in the areas of commercial creditor and debtor rights, bankruptcy proceedings, out-of-court loan restructurings and the purchase and sale of distressed businesses. Since 1998, Mr. Baldiga has also served as a panel Chapter 7 Bankruptcy Trustee for the District of Massachusetts (Western Division); and has acted as an operating trustee, liquidating agent and court-appointed examiner in numerous matters. Mr. Baldiga received his law degree, *magna cum laude*, from Boston College Law School, where he was elected to the Order of the Coif, and his B.A., *magna cum laude*, from Boston College, and previously served as co-chair of the Bankruptcy Section of each of the Boston Bar Association and the Worcester Bar Association.



Amy S. Locke, Esq., was appointed to the Board effective February 1, 2013. She is a senior litigation management associate at Coverys, a medical malpractice insurer. Prior to achieving this position, Ms. Locke was a career trial attorney who focused her practice on defending bodily injury claims, investigating and litigating suspected cases of insurance fraud, and analyzing coverage issues. She practiced at the Cambridge firm of Bellotti & Barretto and at the Boston regional office of Wilson Elser. Ms. Locke received her B.A. *magna cum laude* from the University of Massachusetts/Boston and her J.D. *cum laude* from Suffolk University Law School. In 2012, she earned the Registered Professional Liability Underwriter (RPLU) Designation and recently began teaching the Lawyers Professional Liability Insurance module for the RPLU program.

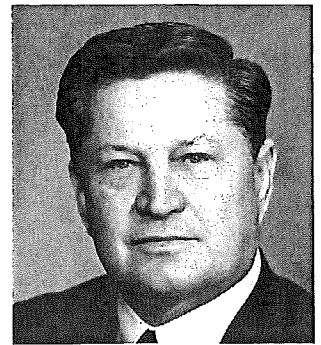


John G. Bagley, Esq., was appointed to the Board effective February 1, 2013. He is a partner in the Springfield office of Morrison Mahoney LLP, where he concentrates his practice in civil litigation. He is a past President of the Hampden County Bar Association; former Chairperson of the Mass Bar Association Judicial Administration Section; former Chairperson of the Hampden County Medical-Legal Society; has served on the Board of Editors of Mass Lawyers Weekly; and is a former member of the Mass Bar Association Committee on Judicial Appointments. In 2008, he was elected as a member of the American Board of Trial Advocates. In 2011, he was invited to Fellowship in the American College of Trial Lawyers and presently serves as a member of its State Committee. Mr. Bagley, a graduate of the College of Holy Cross and Suffolk Law School, was admitted to the bar in 1983.



❧ **William J. LeDoux Award Recipients** ❧

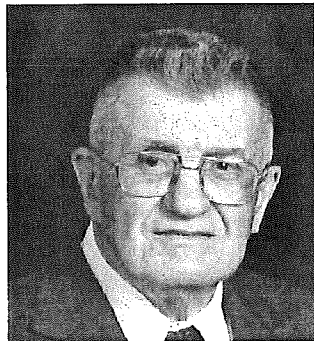
William J. LeDoux served as a member of the Board from 1987 to 1997, including seven years as Chairman. He distinguished himself by tirelessly advancing the Board's goals of serving the public. In 1997 the Board established this award to recognize a lawyer who has demonstrated extraordinary skill and perseverance in representing a claimant before the Board.



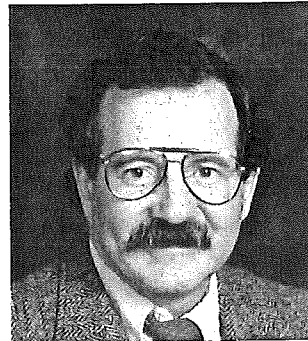
William J. LeDoux
(1931-1999)



Peter H. Sutton, Boston
1998 Recipient



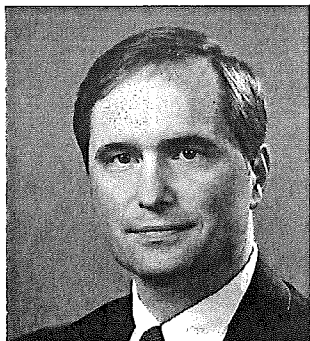
Nathan H. Proctor, Oxford
1999 Recipient



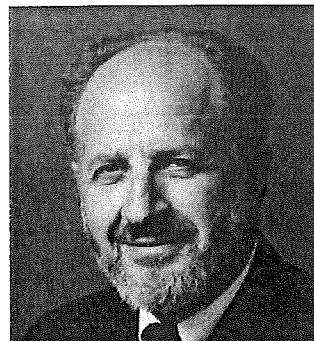
Charles F. Proctor, Oxford
1999 Recipient



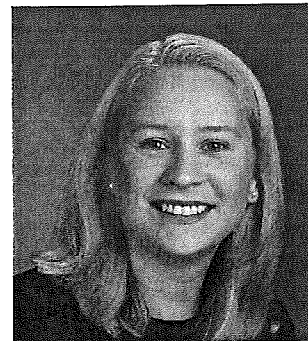
Thomas G. Hoffman, Boston
2000 Recipient



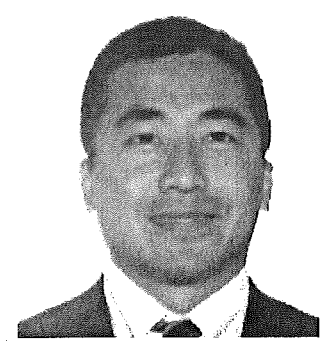
Douglas W. Salvesen, Boston
2002 Recipient



Jerry Cohen, Boston
2003 Recipient



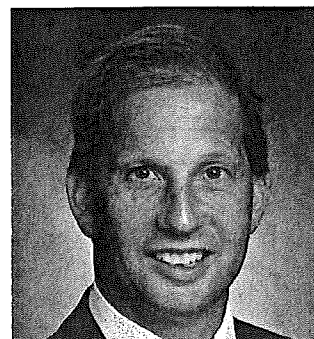
Laura Hancock Barry, Worcester
2004 Recipient



Hung Tran, Boston
2005 Recipient



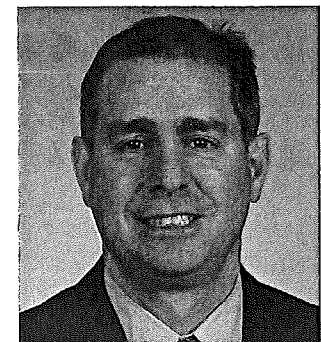
Hang Nina T.K. Nguyen, Boston
2005 Recipient



Russell S. Channen, Haverhill
2010 Recipient



S. Peter Ziomek, Jr., Amherst
2010 Recipient



Leonard A. Frisoli, Cambridge
2012 Recipient

CLIENTS' SECURITY BOARD MEMBERSHIP 1974-PRESENT

Philip J. Assiran (1981-1983)	Pamela Jeanne Koehr (2004-2010)
John G. Bagley (2013-)	Maria J. Krokidas (1979-1984)
Joseph H. Baldiga (2012-)	Elizabeth O'Neill La Staiti (1982-1986)
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